



NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

WASHINGTON, D.C. 20570

FOR IMMEDIATE RELEASE
MONDAY, APRIL 10, 1995

(R-2060)
202/273-1991

NLRB AND BEVERLY INC. REACH AGREEMENT ON HANDLING RECENTLY FILED AND NEW CASES

The National Labor Relations Board and Beverly Health and Rehabilitative Services, Inc. have agreed on interim procedures to enable them to settle or litigate recently filed and future unfair labor practice cases while litigation continues in a separate group of consolidated cases involving Beverly and the Board. The agreement was announced today in the following joint statement by NLRB General Counsel Fred Feinstein, NLRB Region 6 Regional Director Gerald Kobell, Beverly's Executive Vice President and General Counsel Robert Pommerville, and Beverly's Chief Labor and Employment Counsel Michael R. Flaherty.

In negotiating the agreement, the General Counsel and Beverly recognized that concluding the litigation of the currently pending consolidated proceedings may take a prolonged period of time and that, in the interim, it is important to permit the efficient and timely resolution of new cases that are now pending or which may arise in the near term involving Beverly's facilities. Beverly Health and Rehabilitation Services, Inc., formerly known as Beverly California Corporation or Beverly Enterprises, is a long-term health care company which operates nursing facilities, institutional pharmacies, acute long-term transitional hospitals, retirement living centers, and home health centers.

The agreement, which the parties jointly characterize as a "standstill" agreement, affords the employees and parties involved in recently filed and future cases expeditious resolution of their cases without in any way affecting the Board's or Beverly's respective positions in the pending consolidated proceedings. In the consolidated cases, which are in various stages of litigation, the General Counsel contends that Beverly and all of its subsidiaries and operating entities constitute a single employer within the meaning of the Act, and the General Counsel seeks broad relief which, among other things, would apply not only to the facilities specifically involved in each of the respective cases, but also to all other facilities operated by Beverly. The General Counsel additionally seeks other extraordinary relief. Beverly maintains that the corporatwide remedy sought by the General Counsel is contrary to law, and wholly inappropriate, and that each of Respondent's facilities should be treated on an individual basis for purposes of remedy. The General Counsel and Beverly have agreed that notwithstanding their different positions in the pending consolidated cases, and without any prejudice to their respective positions, recent cases in which complaints have issued but which have not been tried, as well as any cases arising in the future in which a complaint is issued will be handled by the respective Regional Offices of the

Board on an individual basis, unless consolidation is deemed appropriate for specific trial reasons, such as for efficiency or convenience of counsel or witnesses, in accordance with the Board's normal rules and procedures concerning consolidation.

Regional Directors of the Board and Beverly, under the terms of the agreement, will be encouraged to discuss the settlement of pending individual cases or future charges on a local basis, fashioning remedies and drafting language to address the particular violations alleged in those cases in accordance with the Board's normal rules and procedures concerning processing and settling of cases. Cases which cannot be settled while the agreement is in effect will be litigated on a local basis, notwithstanding the two pending consolidated cases.

Beverly has agreed that it will not argue before the Board, the Courts or any other forum that the General Counsel's interim agreement to treat Beverly facilities individually rather than seeking corporatewide remedies in any way diminishes or impairs the General Counsel's position that the relief sought in the consolidated cases is fully warranted. Similarly, the General Counsel has agreed that he will not argue that this agreement in any way diminishes or impairs Beverly's position in the national litigation that the corporate remedy and the special remedies are unwarranted and wholly inappropriate. Although each side expressed confidence that it would ultimately prevail on the pending consolidated cases, the agreement, which can be canceled by either party at any time, affords both sides a cost effective and efficient way of resolving new or recently filed unfair labor practice cases and protects the rights of other parties to these proceedings while the Board and the Court consider the pending consolidated cases.

This release has been jointly prepared by the General Counsel of the National Labor Relations Board and Beverly, and by agreement represents the only general public release of the information set forth herein.

#